**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
BATESVILLE DIVISION**

RICKY RICE   PLAINTIFF

v.   **Case No. 1:12CV000040 KGB**

**KIMBERLY-CLARK CORPORATION; and
TERESA PERRYMAN**   **DEFENDANTS**

ORDER

Before the Court is separate defendant Teresa Perryman's motion to dismiss (Dkt. No. 13). Mr. Rice has not responded to the motion, and the time for doing so has passed. Ms. Perryman asserts that Mr. Rice's claims against her should be dismissed for failure to effect timely service of the complaint.

This action was filed in state court on December 28, 2011. Defendant Kimberly-Clark Corporation ("Kimberly-Clark") was served on March 27, 2012. Kimberly-Clark removed the case to this Court on April 25, 2012. Ms. Perryman asserts that, to date, she has not been served with the complaint.
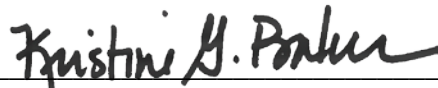
Federal Rule of Civil Procedure 4(m) states that "[i]f a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period."

Mr. Rice has not responded to the motion to dismiss, nor has he moved for an extension of time to serve Ms. Perryman. Accordingly, the Court does not engage in a good-faith or excusable-neglect analysis. Over ten months have passed since Kimberly-Clark removed the

case to this Court. Ms. Perryman asserts that Mr. Rice has not made an effort to serve her and has not sought to determine her whereabouts through discovery.

For these reasons, Ms. Perryman's motion to dismiss is granted (Dkt. No. 13). Mr. Rice's complaint and claims raised as to Ms. Perryman are dismissed without prejudice for failure to effect timely service. Fed. R. Civ. P. 4(m).

SO ORDERED this the 2nd day of April, 2013.

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Kristine G. Baker
United States District Judge